

DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

ALBERT W. CALLWOOD and MARIA DE)	
LOS A. CALLWOOD,)	
)	
Plaintiffs,)	
)	Civil No. 2008-103
v.)	
)	
GOVERNMENT OF THE VIRGIN)	
ISLANDS,)	
)	
Defendant.)	
)	

ATTORNEYS:

Albert W. Callwood
Pro se plaintiff.

Maria De Los A. Callwood
Pro se plaintiff.

ORDER

GÓMEZ, J.

Albert W. Callwood and Maria De Los A. Callwood,
(collectively referred to as "the Callwoods"), who are
representing themselves, commenced this action on July 7, 2008.
Also on July 7, 2008, the Clerk of Court issued a summons to the
defendant, the Government of the United States Virgin Islands
(the "Government"). That summons was addressed to, "Government
of the Virgin Islands, Charlotte Amalie, St. Thomas, U.S.V.I."
(ECF No. 2.)

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On or about July 7, 2008, George Francis, Process Server, filed a return of service with the Clerk of the Court. That document stated that service of process was made on an individual named Merlyn Petty, "at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein." (ECF No. 3.) Where service actually occurred is not apparent from the proof of service, nor is Merlyn Petty's relationship to the Government.

Federal Rule of Civil Procedure 4(j)(2) provides:

(2) State or Local Government. A state, a municipal corporation, or any other state-created governmental organization that is subject to suit must be served by:

- (A) delivering a copy of the summons and of the complaint to its chief executive officer; or
- (B) serving a copy of each in the manner prescribed by that state's law for serving a summons or like process on such a defendant.

Fed. R. Civ. P. 4(j)(2) ("Rule 4(j)(2)"). Virgin Islands law does not provide for service of process on the Government in a way that differs from that set forth in Rule 4(j)(2)(A). Failure to effect proper service within 120 days could result in dismissal of an action. See Fed. R. Civ. P. 4(m).

Here, the Callwoods were required to serve the Government's chief executive officer, that is, the Governor of the Virgin Islands. See 48 U.S.C. § 1591 ("The executive power of the

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Virgin Islands shall be vested in an executive officer whose official title shall be the 'Governor of the Virgin Islands.'"). They failed to do so.

In an order dated August 2, 2010, the Court provided the plaintiffs with fourteen days to show cause in writing why this matter should not be dismissed for lack of timely service. The Court warned that failure to comply with its instructions would result in the dismissal of this matter. The Callwoods did not respond to the Court's August 2, 2010, Order.

On August 20, 2010, the Court dismissed this case for lack of timely service.

Thereafter, notwithstanding the Court's dismissal of this case, the Callwoods repeatedly petitioned the Court for "constitutional justifiable compensation." (Pls.' Mot. Comp., ECF Nos. 6-9). These petitions simply reiterate the allegations in the previously dismissed complaint. Given that timely service was not effected in accordance with the Federal Rules of Civil Procedure, and that this case was closed on that basis, the Court declines to entertain plaintiff's motions for compensation.

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The premises considered, it is hereby

ORDERED that the Callwoods' motions in this matter for justifiable compensation are **DENIED**.

S\ _____
Curtis V. Gómez
District Judge